

APPENDIX E

**OCTOBER 2006
RESPONSE TO COMMENTS**

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
SAN FRANCISCO BAY REGION

Response to Written Comments
Item No. 6

NPDES Permit Reissuance
for
City of Calistoga, Dunaweal Wastewater Treatment Facility, Napa County

After the August 9, 2006, hearing, the Regional Water Board circulated a Revised Tentative Order for comment by September 18, 2006. The Regional Water Board received timely written comments dated September 7, 2006, from the City of Calistoga, and dated September 18, 2006, from the Living Rivers Council. The comments (quoted in *italics*) are followed by our responses. Editorial revisions are summarized at the end of this document.

CITY OF CALISTOGA

Calistoga Comment 1: *It is the City's belief that the incorporation of effective dates for final effluent limits which are beyond the term of the Permit are not appropriate in this Permit. This Permit expires on February 28, 2010, which is prior to the indicated effective dates for the final limits. The reference dates, which occur after the expiration of this Permit, should appropriately be addressed and incorporated into the subsequent Permit....*

The effective dates referenced above are of particular concern since the Tentative Order states, that "...final limits shall become effective..." (and refers to dates in April and May 2010). This establishes a future requirement, which is beyond the term of this Permit. Overall, it is the City of Calistoga's understanding that the inclusion of these future dates, beyond the date of expiration of its Permit, is for reference purposes only. In order to clarify this intent, we request that either: a) these sections be deleted, or b) these sections be revised to be similar to the phraseology used at Footnote 3 to Table 5 (on page 12)....

Response: We agree that these future compliance dates are mentioned for reference only. Fact Sheets do not contain enforceable requirements. However, it is important to include these dates in the Fact Sheet; otherwise it would be unclear whether the compliance schedules extend beyond the permit term or not. Because the effective dates for the final limits are beyond the permit term, they cannot become effective without reissuing the permit. The interim limits will remain in effect until the permit is reissued. We have revised the Fact Sheet (section IV.D.2, page F-35, and section IV.E.1.e, page F-39) for clarity. Among the minor changes, we removed the word "shall" to avoid any potential confusion about whether these statements are requirements.

Calistoga Comment 2: *The City requests a change to the wording of [Standard Provision VII.A.2]. The current wording is somewhat ambiguous, such that it is unclear whether one or two violations would be assessed. It is the City of Calistoga's understanding that the violation of a duplicative requirement (federal and regional Standard Provision) does not constitute two separate violations.*

Response: We agree that the text of the Order (section VII.A.2, page 15) was lengthy and potentially confusing. We revised it as proposed and are doing so in other permits too.

Calistoga Comment 3: *The only final WQBEL in this Permit is for mercury, and we suggest the second to the last sentence in [section IV.C.2.b, page F-18] be revised to reflect this fact.*

Response: We added the word "mercury" to section IV.C.2.b on page F-18. This change was described in the Supplemental Staff Summary Report prepared for the August 2006 hearing, but was inadvertently left out of this version when circulated for public comment.

Calistoga Comment 4: *The City has concerns about the approach taken in the writing of [section IV.C.2.c, pages F-18 to F-20]. The following reasons are offered in explanation of the City's concerns: 1) The concept of the Permit has changed significantly since this text was originally conceived. Given the short duration of the Permit and the Special Studies that are provided for in this Permit, this section as written is no longer appropriate to this Permit, and will be inapplicable at the time of consideration of the next Permit. 2) At the end of the Permit term, actual discharge conditions will be evaluated and defined through required Special Studies which will be approved by the Regional Water Board. It would be speculative to discuss and attempt to require future Permit conditions at this time. 3) The City takes exception to several of the assumptions, conclusions, and proposed actions that are included in this section as it is written.*

The City of Calistoga understand that the Water Board's objective is to preserve some of the facts and reasoning that were considered during the development of this Permit, and we agree that it is important to fully document this process and provide an aid to the writers of the next Permit. However, the City believes that this section, as currently written, may prejudice the writing of the next Permit, and we therefore request that this section be revised to reflect the emphasis on utilization of the results of the future Special Studies in evaluating and subsequently determining future Permit requirements. The City believes the results of the Special Studies should be the principal consideration when determining future dilution credits, ratios, and related requirements.

Response: We are retaining this text, as the comment says, to preserve some of the facts and reasoning considered during the development of this permit. Such Fact Sheet documentation is especially helpful to permit writers during permit reissuance. However, we agree that some of the text appears to prejudice the outcome of the next permit reissuance and could be written more clearly; therefore, we have rewritten portions of the Fact Sheet (section IV.C.2.c, pages F-18 to F-20) for clarity.

LIVING RIVERS COUNCIL

Council Comment 1: *The steelhead and Coho swim upstream to their ancestral spawning grounds using their acute sense of smell to find their way. The release of by products of chlorine and other agents are present in the effluent discharged into the Napa River at the same time the steelhead and salmon are migrating upstream past the outfalls of the Dunaweal Treatment Plant. If foreign water containing sulfur and salt byproducts are introduced during the spawning run, Living Rivers Council asks, will that affect their ability to find their way? Will this introduction of foreign waters interfere with the homing abilities of the fish?*

Response: The Tentative Order is consistent with all water quality objectives for the Napa River. These objectives are intended to protect the river's beneficial uses, including freshwater habitat, preservation of rare and endangered species, fish migration, and fish spawning. The scientific community is still researching how steelhead and salmon find their way upstream. The most common theory is that young steelhead and salmon are imprinted by the mineral balance of their home stream and later use their sense of smell to find their way back to spawn. However, the mineral balance imprinted on young steelhead and salmon in the Napa River probably already reflects the City's discharges of recent years. Therefore, future discharges, which will be similar to those of recent years, are not expected to interfere with fish migration or spawning.

Council Comment 2: *Why has not the City of Calistoga upgraded their sewer treatment plant to provide for year round tertiary treated water? During the 1992 issuing of the NPDES it was proposed by the Sierra Club for a fully upgraded tertiary treatment plant. Why has this not been built? A timetable should be ordered under the NPDES permit for a plant capable of treating all sewer water to tertiary standards.*

Response: During the latter 1990's, the City evaluated a number of alternatives for upgrading the Facility, including upgrading to full tertiary treatment. However, the City concluded that that option was too costly considering the Facility's relatively small service area (it serves a population of just over 5,000). Ultimately, the City spent \$13.4 million to improve the plant so it could treat normal year-round flows to tertiary standards. Peak winter flows above the capacity of the tertiary system are treated to secondary standards and discharged with tertiary treated wastewater to the Napa River only during high flow periods. To support these improvements, the City's monthly wastewater service fees for single-family dwellings are now about 44% higher than the statewide average and 18% higher than the countywide average. Its fee for a new connection to the City's wastewater collection and treatment system is about 400% higher than the statewide average. To further improve the plant to tertiary treatment of all flows, including peak wet weather flows, would involve substantially higher costs.

As it is, the City treats almost all of its effluent to tertiary treatment standards. Fact Sheet Table F-1 (page F-2) shows average flows for the years 2002 through 2004. Of the average total effluent volume of 282 million gallons (MG), 255 MG received tertiary treatment, and 27 MG (about 10% of the total) received secondary treatment, the standard level of wastewater treatment throughout the United States. Additionally, the permit only allows

discharges of secondarily treated effluent when there are very high flows in the Napa River—high enough to provide at least a river-to-discharge dilution ratio of 50-to-1.

Council Comment 3: *Calistoga has been cited many times in the past for discharges of insufficiently treated effluent into the river.... Under the revised permit the City of Calistoga is required to self monitor the water quality. Any substandard water discharged by the plant operator will have to be reported by the same plant operator. Self monitoring and self regulation by an offender is not in the public interest. Public agencies are not immune to the foibles of individuals and just as susceptible to deliberate disregard of environmental regulation.... The... “standard operating procedure” for sewer operators should be changed to require a third party sampling such as an independent lab, for monitoring, analysis, and reporting....*

Response: Self-monitoring and reporting is at the core of the federal Clean Water Act and its NPDES permitting program. Calistoga, like other NPDES permittees, reports violations when they occur as required by its permit. We are not aware of any instances of the City failing to report violations. To ensure full reporting, we conduct periodic unannounced inspections.

Self-monitoring is effective because laboratories must meet strict certification requirements, and reports must be certified by an individual who can be held personally liable (e.g., fines or imprisonment) for under-reporting. The penalties for under-reporting are severe for both the discharger and the individual certifying the sampling results. As indicated in Standard Provisions section V.B.5 (page D-7), the individual must state the following:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations [40 CFR §122.22(d)].

EDITORIAL CHANGES:

We included some editorial revisions with this revised Tentative Order for clarity and consistency with the most recent permits we are preparing. These changes are not substantive. They relate primarily to sanitary sewer overflows and the sewer system management plan (see section VII.C.6.b, page 28).